

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 14-0045

Docket No. 14-0046

In re: Brooksville Meat Fabrication Center, Inc.,

and

Darryl Keith Wright,

Respondents

**Default Decision and Order**

**Preliminary Statement**

This proceeding was instituted pursuant to Section 21 of the Federal Meat Inspection Act (FMIA (21 U.S.C. § 621)), and Part 500 of Title 9 of the Code of Federal Regulations (9 C.F.R. Part 500), and Part 1 Subpart H of Title 7 of the Code of Federal Regulations (7 C.F.R. Part 1), by a complaint and notice of hearing filed on December 5, 2013 by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture, alleging that Respondents Brooksville Meat Fabrication Center, Inc. and Darryl Keith Wright violated the Act and the regulations promulgated thereunder.

The complaint and a copy of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130) (rules of practice) were served upon Respondents by certified mail to Brooksville Meat Fabrication Center on December 16, 2013, and Mr. Wright on December 18, 2013. Respondents were informed in the complaint and the accompanying letter of service that an answer should be filed pursuant to the rules of practice and that failure to answer would constitute an admission of all the material allegations contained in the complaint and a waiver of hearing. Respondents

were further informed that their answer should admit or deny each allegation as set forth in the complaint and that filing an answer that did not deny the material allegations of the complaint would constitute both an admission of those allegations and a waiver of hearing.

Respondents failed to file an answer that denies or otherwise explains or responds to any of the allegations set forth in the complaint and are deemed to have admitted the material facts alleged in the complaint and to have waived their right to a hearing. Accordingly, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the rules of practice applicable to this proceeding (7 C.F.R. § 1.139).

#### Findings of Fact

1. Brooksville Meat Fabrication Center, Inc., herein referred to as Respondent Corporation, is now and at all times material herein was, a corporation located in Brooksville, Kentucky.
2. Respondent Corporation was and has been granted Federal inspection services pursuant to the FMIA since March 3, 2003, at the above named establishment that was and has been designated as Official Establishment Number 9173/P-9173.
3. Darryl Keith Wright is now and at all times material herein was responsibly connected to Respondent Corporation; in that Darryl Keith Wright is President and holder of ten percent or more voting stock in the corporation.
4. On April 30, 2013, the Food Safety and Inspection Service ("FSIS") issued a Notice of Suspension, suspending the assignment of inspectors at respondents' facility because of an egregious act involving the inhumane handling of livestock in violation of 9 C.F.R. 313.16(a)(1) and 313.16(b)(2). FSIS personnel observed a failure to stun incident at the facility involving a heifer less than 30 months of age. At that time, an establishment

employee made an attempt to render the heifer insensible. After the first shot was fired with a 22 Long rifle Mini Mag Hollow Point, inspection personnel noticed that the animal was not insensible and FSIS personnel had to insist that the employee make a secondary shot. The second shot, with a .22 magnum rifle, occurred approximately four (4) minutes later.

5. Respondents proposed corrective and preventive measures between May 1-6, 2013. On May 6, 2013, FSIS verbally notified respondents that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan. On May 7, 2013, FSIS sent a letter to the facility to notify respondents that the suspension was held in abeyance.

6. On June 19, 2013, FSIS issued a Notice of Reinstatement of Suspension of the assignment of inspectors at respondents' facility because FSIS determined that the establishment again failed to handle animals humanely, in violation of 9 C.F.R. 313.15(a)(1) and 313.15(a)(3). In this instance, FSIS inspection personnel observed an employee of respondents' facility deliver multiple shots to a hog with a captive bolt stunner, and fail to take immediate corrective action to render that hog insensible. It took the employee two (2) minutes and fifteen (15) seconds to reload the captive bolt stunner, re-shoot the swine, and render the animal insensible to pain.

7. Respondents proposed corrective and preventive measures between June 20-21, 2013. On June 21, 2013, FSIS notified respondents verbally and in writing that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan.

8. On August 9, 2013, FSIS issued a Notice of Reinstatement of Suspension of the assignment of inspectors at respondents' facility because FSIS determined that the establishment repeatedly failed to handle animals humanely, in violation of 9 C.F.R. 313.16(a)(1) and 313.16(a)(3). FSIS inspection personnel again observed an employee of the respondents' facility deliver multiple shots of a .22 caliber rifle, and again fail to take immediate corrective action to render a beef animal insensible. In this instance, the animal had to be hit three (3) times in order to be rendered insensible to pain. In addition, 30 seconds elapsed between the first and second shot.

9. Respondents proposed corrective and preventive measures between August 11-14, 2013. On August 16, 2013, FSIS verbally notified respondents that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan. On August 19, 2013, FSIS sent a letter to the facility to notify the respondents that the suspension was held in abeyance.

10. On October 9, 2013, FSIS issued a Notice of Reinstatement of Suspension of the assignment of inspectors at respondents' facility because FSIS determined that the establishment repeatedly failed to handle animals humanely, in violation of 9 C.F.R. 313.16(a)(1), 313.2(f), 313.16(a)(1) and 313.16(a)(3). FSIS inspection personnel again observed an employee of the respondents' facility deliver multiple shots, first with a captive bolt stunner and then multiple shots from a .22 caliber rifle. It took three shots to render the hog insensible to pain.

11. In addition to the suspensions, respondents have received Non-Compliance Records from FSIS inspection personnel on November 14, November 16, November 27, 2012; and

July 30, August 7, August 9, and August 26, 2013, for various other humane handling violations involving the failure to provide food and water, and stunning mishaps.

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter.
2. Brooksville Meat Fabrication Center, Inc. and Darryl Keith Wright have violated the Act and the regulations promulgated thereunder.

### **Order**

1. Respondents Brooksville Meat Fabrication Center, Inc. and Darryl Keith Wright are indefinitely suspended until such time as Respondents provide adequate assurances that all slaughter and handling of livestock shall be conducted humanely as required by Section 3 of the Federal Meat Inspection Act ("FMIA"), (21 U.S.C. § 603(b)), and the regulations promulgated thereunder (9 C.F.R. part 313).
2. This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon Respondents Brooksville Meat Fabrication Center and Darryl Keith Wright unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.145).

March 25, 2014

*Peter M. Davenport*

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**Peter M. Davenport**  
Chief Administrative Law Judge